

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

**GINA MONIQUE BOTHELL and
BRIAN KARRI BOTHELL,
individually and as parents and natural
guardians of BRIAN BOTHELL, JR., a
minor**

Plaintiffs,

v.

**OHIO VALLEY GENERAL
HOSPITAL, et al.**

Defendants.

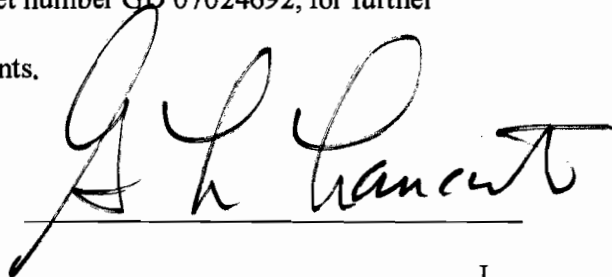
CIVIL ACTION NO. 08-0989

**Honorable Gary L. Lancaster
U.S. District Judge**

Electronically Filed

AND NOW, this 19th ORDER Sept, 2008, upon

consideration of the United States' Motion to Dismiss with Prejudice or, in the alternative, for Summary Judgment, and Plaintiffs' Response in Opposition thereto, IT IS HEREBY ORDERED that the United States' Motion is denied in part and granted in part. The Motion seeking the United States' dismissal with prejudice and/or summary judgment in favor of the United States is denied. However, the United States is dismissed without prejudice, given the provisions of 28 U.S.C. §2679(d)(5), among others of the Federal Tort Claims Act. The case is remanded to the Court of Common Pleas of Allegheny County, under its docket number GD 07024692, for further proceedings against the remaining defendants.



J.